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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

LARRY HARDY,

Plaintiff,

vs.

KINDER MORGAN ALTAMONT, LLC,
EP ENERGY E&P COMPANY, L.P.,
EP ENERGY MANAGEMENT, LLC, and
EP ENERGY RESALE COMPANY, LLC,

Defendants.

NOTICE OF REMOVAL

Case No. 2:21-cv-00244-HCN

Judge Howard C. Nielson

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant Kinder Morgan Altamont, LLC (“Kinder Morgan”), by and through counsel, gives notice of removal of this action from the Third Judicial District Court, Salt Lake County, State of Utah to the United States District Court for the District of Utah, Central Division. Kinder Morgan submits that original subject matter jurisdiction exists in the United States District Court for the District of Utah based on diversity jurisdiction pursuant to 28 U.S.C. § 1332(a), and avers the following in support of this Notice of Removal:

1. On March 30, 2021, Larry Hardy (“Plaintiff”) commenced an action, Civil Number 210901723, against Defendants Kinder Morgan; EP Energy E&P Company, LP; EP Energy Management, LLC; EP Energy Resale Company, LLC, in the Third Judicial District Court of Salt Lake County, Utah by filing a complaint.

2. Plaintiff alleges that Defendants’ negligent conduct caused Plaintiff injury.

3. Plaintiff served Kinder Morgan with a copy of the Complaint on April 15, 2021. Copies of all pleadings filed in the state court action are attached hereto as Exhibit A.

4. Plaintiff requests a jury trial.

5. Under 28 U.S.C. § 1446(b), the Notice of Removal of a civil action shall be filed within 30 days after the receipt by the defendant, through service, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based. Because Kinder Morgan was served on April 15, 2021, this Notice of Removal is timely filed within the 30-day period provided under 28 U.S.C. § 1446(b).

6. This matter is removable because there is diversity jurisdiction pursuant to 28 U.S.C. § 1332(a). Diversity jurisdiction exists “where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between (1) citizens of different states;” 28 U.S.C. § 1332(a)(1).

7. The citizenship of the parties is as follows:

a. **Plaintiff** is a citizen of the State of Utah.

b. **Defendant Kinder Morgan Altamont LLC** is a Delaware limited liability company with its principal place of business in Texas. Kinder Morgan Altamont LLC is

100 percent owned by Kinder Morgan EP Midstream LLC, a Delaware limited liability company with its principal place of business in Texas.¹

c. **Defendant EP Energy E&P Company, LP** is a Delaware limited partnership with its principal place of business in Texas. EP Energy E&P Company, LP is 99 percent owned by EP Energy Management, LLC (LP interest) and 1 percent owned by EP Energy Management, LLC (GP interest). EP Energy Management, LLC is a Delaware limited liability company with its principal place of business in Texas.

d. **Defendant EP Energy Resale Company, LLC** is a Delaware limited liability company with its principal place of business in Texas. EP Energy Resale Company, LLC is 100 percent owned by EP Energy Management, LLC, a Delaware limited liability company with its principal place of business in Texas.

e. **Defendant EP Energy Management, LLC** is a Delaware limited liability company with its principal place of business in Texas. EP Energy Management, LLC is 100

¹ Kinder Morgan EP Midstream LLC is 100 percent owned by Kinder Morgan Operating LLC “A,” a Delaware limited liability company with its principal place of business in Texas. Kinder Morgan Operating LLC “A” is 100 percent owned by Kinder Morgan Energy Partners LP, a Delaware limited partnership with its principal place of business in Texas. Kinder Morgan Energy Partners LP is 97.5842 percent owned by Kinder Morgan, Inc., 1 percent owned by Kinder Morgan GP LLC (GP Interest) and 1.4158 percent owned by Kinder Morgan GP LLC (LP Interest). Kinder Morgan GP LLC is a Delaware limited liability company with its principal place of business in Texas. Kinder Morgan GP LLC is 100 percent owned by Kinder Morgan, Inc., a Delaware corporation with its principal place of business in Texas.

percent owned by EP Energy Global LLC, a Delaware limited liability company with its principal place of business in Texas.²

8. This Court has original subject matter jurisdiction over this action on the following grounds:

a. While Kinder Morgan disputes the existence and extent of Plaintiff's damages, if any, Plaintiff designated this case as "Tier Three," meaning Plaintiff values the case in excess of \$300,000.00. Thus, the amount in controversy exceeds \$75,000.00 and pursuant to 28 U.S.C. § 1332(a), the amount necessary for removal is satisfied; and

b. Plaintiff is a citizen of the State of Utah and Defendants are citizens of Delaware and Texas. There is therefore diversity of citizenship between the parties pursuant to 28 U.S.C. §§ 1332(a)(1) and (c)(1). *See Luke v. Western Dairy Co-op., Inc.*, 734 F. Supp. 963, 967 (D. Utah 1990) ("Subsection (c) of section 1332 provides that corporations have dual citizenship—the state of incorporation and the state of the corporation's principal place of business."); *Shannon's Rainbow, LLC v. Supernova Media, Inc.*, 683 F. Supp. 2d 1261, 1266 (D. Utah Jan. 26, 2010) ("[A]n LLC is a citizen of every state in which its members reside."); *id.* (citing the Supreme Court's holding in *C.T. Carden v. Arkoma Assoc.'s*, 494 U.S. 185 (1990) that the citizenship of a limited partnership depends on the citizenship "of all the members," "the several persons composing such associations," "each of its members").

² EP Energy Global LLC is 100 percent owned by EP Energy LLC, a Delaware limited liability company with its principal place of business in Texas. EP Energy LLC is 100 percent owned by EPE Acquisition LLC, a Delaware limited liability company with its principal place of business in Texas. EPE Acquisition, LLC is 100 percent owned by EP Energy Corporation, a Delaware corporation with its principal place of business in Texas.

9. Therefore, this action may be removed to this Court, the “district and division embracing the place where such action is pending,” 28 U.S.C. § 1441(a), pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

10. Plaintiff has not filed a proof of service indicating that Defendants EP Energy E&P Company, LP; EP Energy Management, LLC; or EP Energy Resale Company, LLC, have been served. As such, and pursuant to 28 U.S.C. § 1446(b)(2)(A), consent to removal from those defendants is unnecessary.

11. A copy of this Notice of Removal is being served upon Plaintiff, through counsel of record, and upon the Clerk of the Third Judicial District Court of Salt Lake County, Utah, as provided by 28 U.S.C. § 1446(d). A true and correct copy of the corresponding Notice of Removal to be filed in the State Court Action is attached hereto (without exhibits) as Exhibit B.

WHEREFORE, Kinder Morgan requests that the referenced State Court Action be removed to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

DATED this 21st day of April, 2021.

RAY QUINNEY & NEBEKER P.C.

/s/ Blake M. Biddulph

Rick L. Rose

Blake M. Biddulph

Attorneys for Defendant

Kinder Morgan Altamont, LLC